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G.R., Appellant)	
)	
and)	Docket No. 21-1195
)	Issued: March 17, 2022
U.S. POSTAL SERVICE, POST OFFICE,)	
Birmingham, AL, Employer)	
)	

² 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On April 21, 2020 appellant, then a 39-year-old assistant rural carrier, filed a traumatic injury claim (Form CA-1) alleging that on April 19, 2020 she sprained her back while in the performance of duty.³ She indicated that the cause of the injury was “unknown.” Appellant stopped work on that date. On the reverse side of the claim form, G.T., a customer supervisor, indicated that appellant was instructed to perform duties within her work limitations, but she did not follow instructions.

In a May 4, 2020 letter, the employing establishment controverted appellant’s claim on the basis of performance of duty and fact of injury. It noted that the alleged injury occurred on April 19, 2020, but appellant did not report the injury until April 21, 2020 and did not seek medical attention until April 22, 2020. The employing establishment also asserted that appellant was filing a new traumatic injury claim because she had wage-loss compensation claims (Form CA-7s) that were denied under a previous claim.

In a May 6, 2020 development letter, OWCP informed appellant that the evidence submitted was insufficient to establish her claim. It advised her of the type of factual and medical evidence necessary to establish her claim and also provided a questionnaire for completion. OWCP afforded appellant 30 days to provide the necessary factual information and medical evidence.

Appellant submitted a statement dated April 21, 2020. She explained that on April 19, 2020 she repeatedly bent down to pick up packages and climbed up and down stairs while delivering mail. Appellant recounted that she reached for two boxes and turned right to step out of the long-life vehicle (LLV) when she felt a sharp pain in her back. She noted that she called G.T., her supervisor, and informed him that her back had gone out. Appellant also provided a statement by A.S. and P.S., appellant’s brother-in-law and sister, who indicated that on April 19, 2020 they picked appellant up from the job site after her alleged injury.

In April 20, 2020 reports, Dr. Shabnam Guard, a Board-certified family medicine physician, recounted appellant’s complaints of thoracic and lumbar spine pain and noted that appellant was injured last year at work. On physical examination, he reported reduced range of motion and tenderness on palpation of the thoracic spine. Examination of the lumbar spine revealed tenderness on palpation and limited range of motion due to pain. Dr. Guard diagnosed degeneration of lumbar intervertebral disc and noted that it was a “work[-]related injury.” He completed a work status note releasing appellant to limited duty on April 23, 2020.

³ OWCP assigned the present claim OWCP File No. xxxxxx088. Appellant has a previously accepted traumatic injury claim related to a June 23, 2019 employment incident. OWCP assigned that claim OWCP File No. xxxxxx684 and accepted it for lumbar back strain. Appellant stopped work on June 23, 2019 and accepted a full-time, limited-duty position on January 31, 2020. She also subsequently filed another traumatic injury claim under OWCP File No. xxxxxx425 for a back injury related to a September 18, 2020 employment incident. By decisions dated January 5 and June 22, 2021, OWCP denied the claim. It has a administratively combined OWCP File Nos. xxxxxx088, xxxxxx425, and xxxxxx826, with the latter designated as the master file.

OWCP received an April 29, 2020 return to work note containing an illegible signature. The note indicated a diagnosis of lumbar radiculopathy and low back pain and date of injury of April 19, 2020.

In a May 21, 2020 letter, appellant informed E.S. that she had the same back condition as under OWCP File No. xxxxxx684. She indicated that all her medical records said the same thing and that she was waiting for a diagnostic test to determine how serious the back condition was.

In a May 21, 2020 letter, Dr. George Thomas, a family medicine specialist, indicated that appellant was seen in the office for complaints of continued back pain. He noted that appellant had an appointment with an orthopedic surgeon scheduled for June 1, 2020.

OWCP received an authorization for examination and/or treatment (Form CA-16) dated April 21, 2020 signed by G.T., appellant's supervisor, who authorized treatment at an urgent care facility. Appellant's alleged injury was described as middle back sprain.

In a letter dated May 15, 2020, A.N., an employing establishment human resource management specialist, asserted that appellant had not met her burden of proof to establish "fact of injury" or "performance of duty." She also alleged that appellant switched doctors in order to obtain stricter work limitations.

On May 22, 2020 appellant accepted a full-time, limited-duty position as an assistant rural carrier.

A May 23, 2020 lumbar spine magnetic resonance imaging (MRI) scan interpreted by Dr. Matthew Dobbs, a Board-certified radiologist, revealed mild facet ligamentous hypertrophy at L4-5 and mild degenerative endplate changes and mild broad-based disc bulge and degenerative changes at L5-S1.

In a June 1, 2020 examination report, Heather Wilson, a certified nurse practitioner, noted that appellant was seen for complaints of chronic low back pain with recent exacerbation. She reported no acute findings on physical examination and diagnostic films. Ms. Wilson diagnosed low back pain and lumbar spondylosis.

A June 1, 2020 diagnostic report demonstrated mild degenerative disc changes at L5-S1 and no acute abnormality.

Appellant submitted workers' compensation injury form reports dated April 22 through June 3, 2020 by a provider with an illegible signature. The report noted an April 19, 2020 date of injury and diagnosis of lumbar radiculopathy or lumbar pain.

On June 23, 2020 OWCP received statements from appellant. Appellant indicated that on April 19, 2020 she reached for a package and turned to get out of her LLV when she felt her back give out. She noted that she notified her supervisor and called 911 for help. Appellant explained that she initially sought treatment from an urgent care facility, but was informed that they did not have a workers' compensation doctor available on Sundays. She asserted that she did not suffer another low back sprain, but had trauma to her disc due to repetitively ascending flights of stairs.

OWCP received epidural injection procedure notes dated June 25 and July 9, 2020 by Dr. Jacob Vella, Board-certified pain management and anesthesiology, who noted a diagnosis of lumbar radiculitis.

In a July 2, 2020 letter, Dr. Thomas noted that appellant injured her lower back and both wrists on June 23, 2019 while lifting and delivering packages. He indicated that appellant sustained another injury on April 19, 2020 after bending to organize packages and climbing up stairs. Dr. Thomas explained that a lumbar spine MRI scan demonstrated increased loss in disc height, a mild broad-based disc bulge, and mild left foraminal narrowing at L5-S1. He discussed the medical treatment that appellant received and recommended that appellant's activities be limited to sitting and lifting up to 10 pounds.

By decision dated July 20, 2020, OWCP denied appellant's claim. It accepted that the April 19, 2020 incident occurred as alleged and that a lumbar condition had been diagnosed; however, it denied her claim finding that she had failed to establish causal relationship between the accepted employment incident and the diagnosed condition.

On July 24, 2020 appellant, through counsel, requested a telephonic hearing before a representative of OWCP's Branch of Hearings and Review.

Appellant submitted additional medical evidence. In an April 29, 2020 examination note, Dr. John Tinglin, a general surgeon, indicated that appellant was seen for follow-up of low back pain and noted physical examination findings of marked tenderness of the lumbar spine. He diagnosed low back pain.

In examination notes dated May 19 and 22, 2020, Dr. Bernard Hale, a family medicine specialist, indicated that appellant was examined for follow-up of back pain. He reported that musculoskeletal examination revealed abnormal gait and stance and diminished strength. Dr. Hale diagnosed lumbar radiculopathy.

In examination notes dated May 23 and 27, 2020, Dr. Mark Pita, a family medicine specialist, reported that he treated appellant for several months of lower back pain and lumbar radiculopathy. He indicated that physical examination findings were normal and diagnosed lumbar radiculopathy and low back pain.

In a September 10, 2020 work status note, Jessica Rollins, a nurse practitioner, indicated that appellant could return to work on September 24, 2020.

On September 17, 2020 appellant accepted a full-time, limited-duty job offer for an assistant rural carrier position.

In a September 21, 2020 report and return to work note, Dr. Thomas indicated that appellant was treated for complaints of back pain and diagnosed with low back pain. He authorized appellant to return to work on September 28, 2020.

In a September 24, 2020 letter, the employing establishment indicated that it continued to challenge appellant's claim on the basis of fact of injury and performance of duty. It alleged that appellant went to several medical facilities in order to receive pain medication. The employing establishment also noted that appellant had two previous back injuries.

On October 5, 2020 a telephonic hearing was held. Appellant testified that she had a history of back pain, but that the incident that occurred on April 19, 2020 was different than a sprain. She explained that she felt a disc in her back move and felt sharp pain that went down to her legs.

An October 19, 2020 lumbar spine MRI scan interpreted by Dr. Ronald Ng, a Board-certified diagnostic radiologist, demonstrated mild diffuse disc bulge and facet disease without significant central foraminal canal stenosis at L5-S1.

In an October 28, 2020 report, Heather Wilson, a certified nurse practitioner, noted that appellant was seen for low back pain. She reviewed diagnostic testing and diagnosed low back pain.

In a November 2, 2020 letter, Dr. Thomas reported that appellant was treated on April 29 and May 21, 2020 for back pain following an April 19, 2020 work incident. He explained that appellant was again seen in the office on September 18, 2020 after she injured her back at work.

In a November 24, 2020 decision, OWCP's hearing representative affirmed, but modified, the July 20, 2020 decision. He determined that the medical evidence of record did not include medical evidence containing a diagnosis in connection with the accepted April 19, 2020 employment incident. Thus, OWCP's hearing representative found that appellant had failed to establish an injury or condition under FECA.⁴

On May 7, 2021 appellant indicated that she wanted to appeal her claim under OWCP File No. xxxxxx088.

In a September 18, 2020 emergency room report, Dr. Anitricia Lumpkin, an osteopathic physician Board-certified in emergency and internal medicine, recounted that on September 18, 2020 appellant "tweaked" her back when she sat on a low chair at work. She noted that appellant had a history of back injury and described the June 23, 2019 and April 19, 2020 work incidents. Dr. Lumpkin reported physical examination findings of normal range of motion and no tenderness. She indicated that a lumbar spine MRI scan demonstrated degenerative disc disease at L5-S1 and no suspicious osseous lesion. Dr. Lumpkin diagnosed degenerative disc disease at L5-S1. Emergency room discharge instructions noted diagnoses of back pain and lumbar degenerative disc disease.

In a January 27, 2021 report, Dr. Timothy Holt, an orthopedic surgeon, indicated that appellant was seen for evaluation of low back pain radiating down into her bilateral legs. Regarding appellant's mechanism of injury, he described that on June 23, 2019 appellant lifted heavy boxes and tried to fix a seatbelt at work; on April 19, 2020 she bent down to organize packages and had climbed three flights of stairs when she felt something twist in her lower back; and on September 18, 2020 she was changing chairs at work when it suddenly dropped down. On physical examination, Dr. Holt reported positive straight leg raise and cram testing. He indicated that a lumbar spine MRI scan demonstrated degenerative disc disease at L4-5 and L5-S1. Dr. Holt

⁴ The hearing representative also instructed OWCP to combine the present claim, OWCP File No. xxxxxx088, and OWCP File No. xxxxxx684 serving as the master file.

diagnosed lumbar radiculopathy, cervicgia, intervertebral disc displacement of the lumbar region, and spinal instabilities of the lumbar region.

Dr. Holt continued to treat appellant and provided reports dated February 4 and April 13, 2021. He reported physical examination findings of limited range of motion and shuffling gait. Dr. Holt reviewed the results of a lumbar discogram and diagnosed lumbar radiculopathy and lumbar intervertebral disc degeneration. He recommended surgical intervention.

A March 15, 2021 lumbar spine MRI scan demonstrated chronically degenerated disc at L4-5 with minimal bulge, chronically degenerated disc protruding at L5-S1, and endplate degeneration at the L5-S1.

In an April 21, 2021 report, Dr. Andrew W. Murkett, a Board-certified internal medicine physician, noted physical examination findings of normal range of motion. He diagnosed low back pain, status post lumbar L5-S1 fusion.

An April 23, 2021 discharge summary report noted that Dr. Holt performed an anterior lumbar interbody fusion at the L5-S1 with a discharge diagnosis of lumbar degenerative disc disease.

By decision dated June 22, 2021, OWCP denied modification of the November 24, 2020 decision.⁵

LEGAL PRECEDENT

An employee seeking benefits under FECA⁶ has the burden of proof to establish the essential elements of his or her claim by the weight of the reliable, probative, and substantial evidence⁷ including that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation of FECA,⁸ that an injury was sustained in the performance of duty as alleged, and that any specific condition or disability from work for which compensation is claimed is causally related to that employment injury.⁹ These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.¹⁰

⁵ The Board notes that appellant has an appeal pending before the Board concerning a separate June 22, 2021 OWCP decision under File No. xxxxxx425. That appeal will proceed under Docket No. 21-1196.

⁶ *Supra* note 1.

⁷ *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

⁸ *F.H.*, Docket No. 18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁹ *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

¹⁰ *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established.¹¹ There are two components involved in establishing fact of injury. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time and place, and in the manner alleged.¹² Second, the employee must submit evidence, generally only in the form of probative medical evidence, to establish that the employment incident caused a personal injury.¹³

To establish causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence.¹⁴ The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factor(s) identified by the employee.¹⁵ The weight of the medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested, and the medical rationale expressed in support of the physician's opinion.¹⁶

In a case in which a preexisting condition involving the same part of the body is present and the issue of causal relationship, therefore, involves aggravation, acceleration, or precipitation, the physician must provide a rationalized medical opinion that differentiates between the effects of the work-related injury or disease and the preexisting condition.¹⁷

ANALYSIS

The Board finds that appellant has met her burden of proof to establish a diagnosed medical condition causally related to the accepted April 19, 2020 employment incident.

In April 20, 2020 reports, Dr. Guard reported reduced range of motion and tenderness on palpation of the thoracic spine. Examination of the lumbar spine revealed tenderness on palpation and limited range of motion due to pain. Dr. Guard diagnosed degeneration of lumbar intervertebral disc and noted that it was a "work[-]related injury."

In examination notes dated May 19 and 22, 2020, Dr. Hale noted that appellant was examined for follow-up of back pain. He reported that musculoskeletal examination revealed abnormal gait and stance and diminished strength. Dr. Hale diagnosed lumbar radiculopathy.

¹¹ *S.P.*, 59 ECAB 184 (2007); *Alvin V. Gadd*, 57 ECAB 172 (2005).

¹² *Bonnie A. Contreras*, 57 ECAB 364 (2006); *Edward C. Lawrence*, 19 ECAB 442 (1968).

¹³ *David Apgar*, 57 ECAB 137 (2005); *John J. Carlone*, 41 ECAB 354 (1989).

¹⁴ *See S.A.*, Docket No. 18-0399 (issued October 16, 2018); *see also Robert G. Morris*, 48 ECAB 238 (1996).

¹⁵ *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

¹⁶ *James Mack*, 43 ECAB 321 (1991).

¹⁷ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013).

In examination notes dated May 23 and 27, 2020, Dr. Pita indicated that physical examination findings were normal and diagnosed lumbar radiculopathy and low back pain.

In a September 18, 2020 emergency room report, Dr. Lumpkin reported physical examination findings of normal range of motion and no tenderness. She indicated that a lumbar spine MRI scan demonstrated degenerative disc disease at L5-S1 and no suspicious osseous lesion. Dr. Lumpkin diagnosed degenerative disc disease at L5-S1. Emergency room discharge instructions noted diagnoses of back pain and lumbar degenerative disc disease.

In a January 27, 2021 report, Dr. Timothy Holt, an orthopedic surgeon, indicated that appellant was seen for evaluation of low back pain radiating down into her bilateral legs. On physical examination, he reported positive straight leg raise and cram testing. Dr. Holt indicated that a lumbar spine MRI scan demonstrated degenerative disc disease at L4-5 and L5-S1. He diagnosed lumbar radiculopathy, cervicgia, intervertebral disc displacement of the lumbar region, and spinal instabilities of the lumbar region. The Board thus finds that evidence of record establishes diagnoses including degenerative disc disease at L5-S1, lumbar radiculopathy, cervicgia, intervertebral disc displacement of the lumbar region, and spinal instabilities of the lumbar region.

The Board further finds, however, that the case is not in posture for decision with regard to whether the diagnosed medical conditions are causally related to the accepted April 19, 2020 employment incident. As the medical evidence of record establishes diagnosed medical conditions, the case must be remanded for consideration of the medical evidence with regard to the issue of causal relationship.¹⁸ Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.¹⁹

CONCLUSION

The Board finds that appellant has met her burden of proof to establish a diagnosed medical condition causally related to the accepted April 19, 2020 employment incident. The Board further

¹⁸ See *F.D.*, 21-1045 (December 22, 2021).

¹⁹ A completed Form CA-16 authorization may constitute a contract for payment of medical expenses to a medical facility or physician, when properly executed. The form creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. See 20 C.F.R. § 10.300(c); *J.G.*, Docket No. 17-1062 (issued February 13, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003).

finds that the case is not in posture for decision with regard to whether the diagnosed medical condition is causally related to the accepted April 19, 2020 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the June 22, 2021 decision of the Office of Workers' Compensation Programs is reversed in part and set aside in part. The case is remanded for further proceedings consistent with this decision of the Board.

Issued: March 17, 2022
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board